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Labor

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Labor; definition of sex discrimination

Government Code §§ 12926, 12945 (amended).

SB 1027 (Petris); 1990 STAT. Ch. 15

Support: American Civil Liberties Union; California NOW, Inc.; The State Bar of California

Opposition: Department of Fair Employment and Housing; Merchants and Manufacturers Association

Under existing law, it is unlawful to discriminate in employment and housing on the basis of sex.¹ Chapter 15 clarifies the definition of “sex” for the purposes of the Fair Employment and Housing Act² as including pregnancy, childbirth, or medical conditions associated with pregnancy or childbirth.³

VCM

1. See CAL. GOV'T CODE §§ 12940-12955 (West Supp. 1990).

2. See *id.* §§ 12900-12996 (West 1980 & Supp. 1990) (codifying the Fair Employment and Housing Act).

3. *Id.* § 12926(j) (amended by Chapter 15). The provision for sex and pregnancy discrimination in California Government Code section 12945 is not affected by the coverage in section 12940. *Id.* § 12945(d) (amended by Chapter 15). Cf. 42 U.S.C. § 2000e(k) (1981). The Pregnancy Discrimination Act of 1978, which amended Title IV of the Civil Rights Act of 1964, includes pregnancy discrimination in its definition of sex discrimination. Cf. CONN. GEN. STAT. § 46a-60(a)(7) (West Supp. 1990); ME. REV. STAT. ANN. tit. 5, § 4572-A (1989); N.Y. EXEC. LAW § 296(g) (West Supp. 1990) (similar statutes). See generally Note, California Federal Savings and Loan Association v. Guerra: The United States Supreme Court Upholds California's Mandatory Job Protection For Pregnant Workers, 19 PAC. L.J. 335 (1988) (California Government Code section 12945 is not preempted by Title VII of the Federal Civil Rights Act of 1964); Finley, *Transcending Equality Theory: A Way Out of the Maternity and the Workplace Debate*, 86 COLUM. L. REV. 1118 (1986) (advocating that pregnancy should not be analyzed as an “equality” problem); Note, *Pregnancy and Equality: A Precarious Alliance*, 60 S. CAL. L. REV. 1345 (1987) (arguing that failure to recognize the reproductive differences between men and women impedes women's progress in the workplace); Note, *Getting Women Work That Isn't Women's Work: Challenging Gender Biases in the Workplace Under Title VII*, 97 YALE L.J. 1397 (1988) (interpreting The Pregnancy Discrimination Act, amending title VII, as a congressional realization that women cannot be forced to compete in the workplace under “male-based” standards).

Labor; employee assistance program

Health and Safety Code §§ 11759.10, 11759.11, 11759.12, 11759.15, 11759.17 (new).

SB 2220 (Seymour); 1990 STAT. Ch. 1299

Sponsor: California Chapter of Employee Assistants Professional Association

Support: California Union of Safety Employees; Contra Costa County Board of Supervisors; Small Businesses of America, Incorporated; California Teamsters Public Affairs Council

Opposition: Department of Finance

Under existing law, various state programs exist to aid employees with drug or alcohol problems.⁴ Chapter 1299 creates the Employee Assistance Advisory Council (Council).⁵ Chapter 1299 authorizes the Council to implement the Consortium Demonstration Program within the State Department of Alcohol and Drug programs.⁶ This program establishes a public-private partnership where the state will provide financial assistance to consortiums⁷ so that they can establish employee assistance programs.⁸

IWC

4. See CAL. LAB. CODE § 1025 (West 1989) (requiring employers of 25 or more employees to assist an employee who wishes to enter an alcohol or drug rehabilitation program). This section does not prohibit employers from firing or refusing to hire employees who are unable to perform their duties because of drug or alcohol use. *Id.* Complaints concerning employers' accommodations may be filed with the Labor Commissioner. *Id.* § 1028.

5. *Id.* § 11759.15(a) (enacted by Chapter 1299). The Council shall consist of twelve members, representing each of the following: labor organizations; management organizations; the State Department of Alcohol and Drug programs; the Department of Industrial Relations; the State Department of Mental Health; the State Chamber of Commerce; and the Office of Small Business Administration. *Id.* § 11759.15(a)-(b) (enacted by Chapter 1299).

6. *Id.* § 11759.17 (enacted by Chapter 1299).

7. See *id.* § 11759.12(a) (enacted by Chapter 1299) (definition of consortium).

8. *Id.* § 11759.17(a) (enacted by Chapter 1299).

Labor; hazardous substance removal

Labor Code § 142.7 (amended).

AB 3018 (Tanner); 1990 STAT. Ch. 1188

Sponsor: Operating Engineers, Local 3

Support: California Labor Federation, AFL-CIO

Existing law requires the Occupational Safety and Health Standards Board (Board)¹ to adopt an occupational safety and health standard² for employees performing hazardous substance removal work.³ Chapter 1188 declares the standard adopted by the federal government to be the applicable standard until the Board adopts a new standard.⁴ Chapter 1188 also redefines “hazardous substance removal” to expand the list of hazardous substance removal sites.⁵

JYE

1. See CAL. LAB. CODE § 140 (West 1989) (membership in, appointment to, and qualifications of the Occupational Safety and Health Standards Board).

2. See *id.* § 142.7(a)(1)-(5) (amended by Chapter 1188) (requirements to be included in the standard).

3. *Id.* § 142.7(a) (amended by Chapter 1188). See *id.* § 142.7(b) (amended by Chapter 1188) (definition of hazardous substance removal work).

4. *Id.* § 142.7(c) (amended by Chapter 1188). See 29 C.F.R. § 1910.120 (1989) (federal hazardous substance removal standard requiring a preliminary site evaluation along with a site control program to prevent contamination).

5. CAL. LAB. CODE § 142.7(b) (amended by Chapter 1188). Hazardous waste sites include CERCLA sites, sites where a hazardous substance or sewage has been released into waters of the state, and sites selected by the Department of Health and Safety. *Id.*